



FAYETTEVILLE CITY COUNCIL
AGENDA
FEBRUARY 6, 2012
5:00 P.M.
Lafayette Room, City Hall

1.0 CALL TO ORDER

2.0 INVOCATION

3.0 APPROVAL OF AGENDA

4.0 OTHER ITEMS OF BUSINESS

4.1 Amending Chapter 6, Animals and Fowl

Presented By: Karen M. McDonald, City Attorney Rick Moorefield, County Attorney

4.2 R.A.M.P. - Rental Action Management Program

Presented By: Doug Hewett, Assistant City Manager

4.3 Recommended Fiscal Year 2013-2017 Capital Improvement Plan (CIP) and Information Technology Plan (ITP)

Presented By: Dale Iman, City Manager Rusty Thompson, Engineering and Infrastructure Director Dwayne Campbell, Chief Information Officer Lisa Smith, Chief Financial Officer

4.4 Parks and Recreation Capital Project Bond Issue Proposal

Presented By: Kristoff Bauer, Assistant City Manager, Michael Gibson, Parks and Recreation Director

4.5 Revisions to Policy 150.2 Relating To Annexation Requirements In Exchange For PWC Services Have Not Been Implemented With Complete Success. Revisions To Policies And Implementation Practices To Address Issues Will Be Presented.

Presented By: Kristoff Bauer, Asst. City Manager

4.6 Consideration of Adoption of Revisions to Chapter 23, Article III Stormwater Management Ordinance.

Presented By: Greg Caison, Stormwater Manager

4.7 Back Door Yard Waste Collection Service

Presented By: Jerry Dietzen, Environmental Services Director

5.0 ADJOURNMENT

CLOSING REMARKS

POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS

Anyone desiring to address the Council on an item that is not a public hearing must present a written request to the City Manager by 10:00 a.m. on the Wednesday preceding the Monday meeting date.

POLICY REGARDING PUBLIC HEARING AGENDA ITEMS

Individuals wishing to speak at a public hearing must register in advance with the City Clerk. The Clerk's Office is located in the Executive Offices, Second Floor, City Hall, 433 Hay Street, and is open during normal business hours. Citizens may also register to speak immediately before the public hearing by signing in with the City Clerk in the Council Chamber between 6:30 p.m. and 7:00 p.m.

POLICY REGARDING CITY COUNCIL MEETING PROCEDURES SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM

Individuals who have not made a written request to speak on a non-public hearing item may submit written materials to the City Council on the subject matter by providing twenty (20) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

Notice Under the Americans with Disabilities Act (ADA): *The City of Fayetteville will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. Any person who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in any City program, service, or activity, should contact the office of Ron McElrath, ADA Coordinator, at rmcelrath@ci.fay.nc.us, 910-433-1696, or the Office of the City Clerk at cityclerk@ci.fay.nc.us, 910-433-1989, as soon as possible but no later than 72 hours before the scheduled event.*

CITY COUNCIL ACTION MEMO

TO: Mayor & Members of City Council
FROM: Doug Hewett, Assistant City Manager
DATE: February 6, 2012
RE: **R.A.M.P. - Rental Action Management Program**

THE QUESTION:

Do the modifications to the RAMP ordinance and program meet City Council's interest to better regulate problem residential rental properties?

RELATIONSHIP TO STRATEGIC PLAN:

Supports city goal #2: Growing City, Livable Neighborhoods - A great place to live. This issue was also a target for action in last fiscal year's strategic plan.

BACKGROUND:

On April 26, 2011, the City Council adopted a Probationary Rental Occupancy Permit (PROP) program. This program was designed to allow the City to more closely monitor and regulate rental properties that are the site of repeated or severe code violations or that are the site of certain criminal acts.

The program would have required those rental property owners whose property is the site of such violations or crimes to be placed into PROP and as a condition for renting the offending property again, the owner would be required to obtain a permit from the City. This would have allowed the City greater oversight of problem rental properties. The program was to be implemented July 1, 2011.

On June 18, 2011, Senate Bill 683 was ratified by the Legislature. The purpose of this Bill was to limit the level of local regulation of rental properties as well as limit the use of periodic inspections. Specifically, it prohibits cities from enforcing an ordinance that requires permitting of rental properties unless the property is the site of more than three violations in a 12-month period or is identified as being in the top 10 percent of properties with crime or disorder problems as set forth in a local ordinance. The language regarding the top 10 percent of properties with crime or disorder problems is based on a program currently utilized in Charlotte.

This Bill had a direct impact on the functionality and substance of the PROP program. On August 1, 2011, staff provided an update to City Council that stated with the adoption of Senate Bill 684, the PROP ordinance was no longer enforceable as drafted. Only one of the ten PROP eligible conditions could possibly be enforced as intended and it would still have to be revised. Furthermore, the ability of the City to charge a permit fee for PROP eligible properties under that the PROP ordinance was doubtful.

Given the substantial changes needed to make the City's PROP ordinance compliant with NC Law, staff recommended, and City Council approved rescission/repeal of the PROP ordinance on August 8, 2011. City Council directed staff to revise the PROP program, consistent with state law, and bring back program alternatives as soon as possible.

Staff provided an update on October 3 with a draft ordinance for PROP II, now titled RAMP (Rental Action Management Program). In developing the draft ordinance and program overview, staff met several times with counterparts in Charlotte regarding their program to determine how to replicate it in Fayetteville. Additionally, staff conducted 5 stakeholder meetings to explain RAMP and solicit feedback.

Staff provided another update to City Council on November 7 with a recommendation that a public hearing be held on Monday, December 12 to allow interested stakeholders an opportunity to

address Council directly.

City Council conducted the public hearing on December 12, 2011 to receive feedback directly from interested stakeholders. A total of 19 speakers addressed City Council on the ordinance and program design.

On January 9, 2012 staff presented a finalized version of RAMP to the City Council for consideration. City Council deferred action and requested staff research several options to address stakeholder concerns.

The attached revisions to the RAMP ordinance address several stakeholder concerns while still providing a comprehensive approach to deal with problem residential property in Fayetteville.

ISSUES:

Proposed RAMP Ordinance and Program Modifications

Based upon feedback from City Council and stakeholders, staff proposes the following modifications to the original RAMP ordinance:

1. Add a definition for Apartment house/Apartment Complex.
2. Changed the definition of "Residential Rental Property" to include single family homes, duplexes and triplexes but specifically exempt apartments.
3. Added Section 14-78, which gives Council the ability to add a property to the RAMP program by ordinance. Problem apartments complexes could be added to RAMP following Council action.
4. Removed the property categories and references to the same.
5. Added provision specifying that if a property is determined not to meet the Disorder Threshold, registration is not required. Also added that the registration fee will not be deposited for ten days (the appeal period) or longer if it is actually appealed.
6. Changed the appellate process to allow for appeals of the Police Official's decision to require the property to register as well as any decision to revoke registration. This appeal addresses the Police decision but not the code violation decision. There is an appellate process already in place for code violations so it seemed unnecessary to allow an appeal of a decision to include a property in RAMP due to code violations. The right to appeal does however still exist for those properties that have their registration revoked due to an additional code violation. Also included is a standard required showing that must be met in order for the Board to uphold the decision of the staff.

Resource Needs by Department and Implementation Schedule

Code Violations – Development Services

- 1.0 code enforcement officer
- 0.5 office assistant

Months 1-9

1. Data collection and observation
2. June 2012 begin hiring process for code enforcement officer, effective date of hire July 1, 2012.
3. Run 1st batch of reports to determine if any properties have 3+ code enforcement violations in October 2012 – (July-September 2012).
4. Run 2nd batch of reports to determine if any properties have 3+ code enforcement violations in January 2013– (October-December 2012).

Months 9-12

1. January 2013 begin hiring process for .5 office assistant
2. Run 3rd batch of reports to determine if any properties have 3+ code enforcement violations in April 2013 – (January-March 2013).
3. Run 4th batch of reports to determine if any properties have 3+ code enforcement violations in July 2013 – (April-June 2013).

Crime – Police

- 1 sworn officer
- 2 crime analysts

Months 1-6:

1. June 2012 begin hiring process for all staff.
2. Identification of residential rental properties
3. Identification of tracking software to be used for monitoring properties in RAMP
4. Development of the Remedial Action Manual

Months 7-12:

1. January 2013 ,official tally of data gathered thus far to identify the top 10% residential rental properties eligible for entry into the program – focusing on the top 8% primarily
2. Set up the mandatory meetings with those in the top 8% to enroll them in RAMP
3. Send out courtesy warning letters to those property owners that have been identified as being in the top 8%-10% that won't be enrolled in RAMP

BUDGET IMPACT:

Given the modifications proposed for the RAMP Ordinance and program, staff believes that one of the sworn police positions can be eliminated. Once up and running, staff may request an additional position based upon work load.

OPTIONS:

As this is a work session, no action is required. Based upon the direction of City Council, staff will ready RAMP for possible Council adoption at the February 27 City Council meeting.

RECOMMENDED ACTION:

Provide direction to staff.

ATTACHMENTS:

RAMP Ordinance 06Feb2012

Top 10% Calculations

RAMPbudget_06Feb2012

Please note the following is not the entire chapter. A new article V is being created as follows.

Chapter 14

HOUSING, DWELLINGS AND BUILDINGS

ORDINANCE NUMBER: _____

AMENDING CHAPTER 14

WHEREAS, the City of Fayetteville has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order; and

WHEREAS, G.S. 160A-174 allows a city by ordinance to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of the public, and the peace and dignity of the city; and

WHEREAS, there are residential rental properties in the City of Fayetteville that have become a haven for various criminal or disruptive activities that cause disorder in our community; and

WHEREAS, the City Council desires to minimize and control the adverse effects caused by illegal activities occurring on and in these properties and thereby protect the health, safety, and welfare of the citizens, preserve the quality of life and property values and the character of neighborhoods and businesses, and deter the spread of urban blight; and

WHEREAS, the City Council recognizes that it is necessary for the City to apply its limited police and other municipal resources in accordance with the needs of the community at large, and to adjust the application of those resources as necessary to address activity that is injurious to the health, safety and welfare of the public; and

WHEREAS, the City Council recognizes that deterring crime in residential rental properties is a dynamic partnership between police, property owners, property managers, residents, and neighbors, each with responsibilities in cooperation with the other; and

WHEREAS, the City Council desires to implement a registration requirement for those residential rental property owners whose rental property has an unacceptable level of disorder activity occurring on or in the property; and

WHEREAS, there is a significant and demonstrative need to implement a program designed to assist residential rental property owners and managers who have experienced excessive levels of criminal activity and disorder; and

WHEREAS, the City Council desires to enact a residential rental action management program for residential rental property owners in order to implement recommended measures to curb excessive levels of criminal activity and disorder at rental properties; and

WHEREAS, the City Council, finds that a residential rental property owner's failure or refusal to successfully complete the remedial action program is injurious to the public's health, safety and welfare.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Chapter 14 "Housing, Buildings and Dwellings" of the Fayetteville City Code is amended by creating Article V entitled "Rental Action Management Program", to read as follows:

"ARTICLE V. Rental Action Management Program.

Section 14-63. Purpose.

The purpose of this article is to establish a requirement that Owners of Residential Rental Property whose property is within the Disorder Risk Threshold as established by this ordinance or in repeated violation of the Fayetteville City Code as defined and established by this ordinance must register with the City sufficient identification information so that the City may expeditiously identify and contact the Owner when excessive levels of disorder activity or code violations have occurred on or in the property. In addition, the City desires to establish a method to hold Owners of Residential Rental Property accountable for failing to use effective methods to reduce Disorder Activity and code violations on their property. It is not the intent of this article to determine the rights and liabilities of persons under agreements to which the City is not a party. This article shall not be construed to alter the terms of any lease or other agreement between a landlord and a tenant or others relating to property that is the subject of this Article; provided that no provision of any lease or other agreement shall be construed to excuse compliance with this article. Additionally, a violation of this article shall not in and of itself create negligence per se standard or otherwise expand existing liability in tort for either a landlord or a tenant.

Section 14-64. Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

Apartment House or Apartment Complex: Any dwelling containing three (3) or more *dwelling units*, as defined by Chapter 14, Section 14-5 of the Fayetteville Code of Ordinances.

Development Services Official: A person designated by the Development Services Director of the City of Fayetteville who is primarily responsible for the administration of this Article.

Disorder Activity: Incidents of criminal activity occurring on or in a Residential Rental Property as categorized in this Ordinance entitled "Appendix A."

Disorder Activity Count: A number assigned to a Residential Rental Property that represents the amount of Disorder Activity occurring within a specified time period in or on the Property. For purposes of determining a Disorder Activity Count, the number of incidents is multiplied by an assigned number as designated in Appendix A of this Ordinance.

Disorder Risk Threshold: The Disorder Activity Count for the Residential Rental Property that is at the 90th percentile of Residential Rental Properties.

In Need of Remedial Action: (INRA): A designation by the Police Official that a Residential Rental Property has been identified for enforcement action under this ordinance.

Incident: The occurrence of a criminal activity on or in a Residential Rental Property as categorized in this Ordinance for which a police report is generated.

Manager: The person, persons or legal entity appointed or hired by the Owner to be responsible for the daily operation of the Residential Rental Property.

Owner: The person, persons or legal entity that holds legal title to a Residential Rental Property.

Police Official: A person designated by the Chief of Police who is primarily responsible for the administration of this Article.

Registered Agent: The person identified by the Owner of the Residential Rental Property in the registration filed pursuant to this Article who is authorized to receive legal process and/or notice required or provided for in this Article.

Remedial Action Plan: A written plan agreed upon and signed by both the Police Official and Owner whereby the Owner agrees to implement remedial measures on a Residential Rental Property whose Disorder Activity Count exceeds the Disorder Risk Threshold for its Residential Rental Property Category.

Remedial Measures: Mandatory and voluntary measures as stated within the Remedial Action Plan Manual, a copy of which is on file at the City Clerk's Office.

Residential Rental Property: Property that contains a single-family rental dwelling unit for use by residential tenants including but not limited to the following: single-family stand alone homes, duplexes, triplexes, mobile homes, mobile home spaces, townhomes, and condominium unit(s). A single-family rental dwelling unit is hereby defined to include those units available for rent that are currently vacant. The following establishments are exempt from this ordinance unless added to the Rental Action Management program pursuant to an ordinance adopted by the City Council: Bed & Breakfast Inns, Hotels, Motels, Rest Homes, Rooming Houses, Lodging Houses, and Apartment Houses or Apartment Complexes.

Residential Rental Property Review Board: The Board created pursuant to this Article.

Verified Violation. A violation of any ordinance of the Fayetteville City Code of Ordinances as designated in "Appendix B" of this ordinance and determined by the Development Services Official.

Section 14-65. Registration of Residential Rental Property Due to Verified Violations.

- (a) Each Owner of Residential Rental Property that has been found with three (3) or more verified violations in the previous twelve (12) month period, whether those violations have been resolved by corrective action or not, shall register that property by providing the following information to the Development Services Official:
 - (1) The address(es) for the Residential Rental Property which shall include the street name(s), number(s) and zip code;
 - (2) The name(s), business or personal address, telephone number, and email address of the Owner;
 - a. If the property is owned by multiple natural persons, then the required information shall be that of one person who has legal authority to act on behalf of the other Owners.
 - b. If the property is owned by a corporation, whether foreign or domestic, then the required information shall be that of a Registered Agent and of an officer who has authority to act on behalf of the corporation.

- c. If the property is owned by a partnership, then the required information shall be that of the managing partner and one alternate who have legal authority to act on behalf of the partnership.
 - d. If the property is owned by an unincorporated association or any other legal entity not mentioned above, then the required information shall be that of a person who has legal authority to act on behalf of that association or entity.
- (3) The number of units located on the residential property.
- (b) The address(s) required in subsection (a) (2) shall not be a public or private post office box or other similar address.
- (c) An Owner that is required to register under this ordinance who sells the property shall notify the Development Services Official of all purchaser information within thirty (30) days from the date of change of ownership. Purchaser information shall include the name, address, phone number and e-mail address for the purchaser.
- (d) An Owner that is required to register under this ordinance shall post proof of registration as provided by the City in the business office of the property or in a common area or other conspicuous place accessible at all times to the tenant(s).
- (e) Each residential rental property parcel shall be registered separately.
- (f) The Owner of Residential Rental Property that is the site of three (3) verified violations in the previous twelve (12) month period shall be sent a notice by certified mail to the name and address listed with the Cumberland County's Office of Tax Assessor.
- (g) The notice shall include the following information:
 - (1) A description of the verified violations of the Fayetteville City Code that have occurred at the property in the past twelve (12) months as well as the dates of said violations; and
 - (2) The amount of the registration fee.
 - (3) The deadline for completing the registration process.

Section 14-66. Grounds for Revocation of Rental Registration as Required by Section 14-65.

- (a) Each Owner of Residential Rental Property that has been found with four (4) or more verified violations in the previous twelve (12) month period, whether those violations have been resolved by corrective action or not, shall have the rental registration for that property revoked by the Development Services Official.
- (b) Each Owner of Residential Rental Property that is required by this ordinance to register his or her property and either fails to do so or fails to pay the required registration fee shall have the rental registration revoked by the Development Services Official.

Section 14-67. Notice of Revocation.

A notice of revocation shall be sent by certified mail or delivered in person to the address listed on the rental registration.

Section 14-68. Period of Revocation.

Revocation of an Owner's rental registration shall remain in place for a period of one (1) year. If an Owner fails to register his or her property as required by this ordinance then that property shall be ineligible for registration for a period of one (1) year.

Section 14-69. Registration of Residential Rental Property Due to Disorder Activity.

- (a) Each Owner of Residential Rental Property that falls at or above the Disorder Risk Threshold for its Residential Rental Property Category shall register by providing the following information at the initial mandatory meeting:
 - (1) The address(s) for the Residential Rental Property which shall include the street name(s), number(s) and zip code;
 - (2) The name(s), business or personal address, telephone number, and email address of the Owner;
 - a. If the property is owned by multiple natural persons, then the required information shall be that of one person who has legal authority to act on behalf of the other Owners.
 - b. If the property is owned by a corporation, whether foreign or domestic, then the required information

shall be that of a Registered Agent and of an officer who has authority to act on behalf of the corporation.

- c. If the property is owned by a partnership, then the required information shall be that of the managing partner and one alternate who have legal authority to act on behalf of the partnership.
- d. If the property is owned by an unincorporated association or any other legal entity not mentioned above, then the required information shall be that of a person who has legal authority to act on behalf of that association or entity.

(3) The number of units located on the residential property.

- (b) The address(s) required in subsection (a) (2) shall not be a public or private post office box or other similar address.
- (c) An Owner that is required to register under this ordinance who sells the property shall notify the Police Official of all purchaser information within thirty (30) days from the date of change of ownership. Purchaser information shall include the name, address, phone number and e-mail address for the purchaser.
- (d) An Owner that is required to register under this ordinance shall post proof of registration as provided by the City in the business office of the property or in a common area or other conspicuous place accessible at all times to the tenant(s).
- (e) Each residential rental property parcel shall be registered separately.

Section 14-70 Disorder Risk Threshold and Disorder Activity Count.

The Police Official shall determine the Disorder Activity Count for each Residential Rental Property and the Disorder Risk Threshold for each Residential Rental Property Category on a semi-annual basis, by January 1 of each calendar year and by July 1 of each calendar year. These determinations shall be made using Disorder Activity during the previous six month period.

Section 14-71. Notification of Mandatory Meeting.

- (a) The Owner of Residential Rental Property that falls at or above the Disorder Risk Threshold shall be sent a notice by certified mail to the name and address listed with the Cumberland County's Office of Tax Assessor.

- (b) The notice shall include the following information:
 - (1) The date, time and location for the mandatory initial meeting between the Police Official and the Owner; and
 - (4) The Disorder Activity Count for the Residential Rental Property; and
 - (3) A statement that the Owner may provide additional evidence at the initial mandatory meeting to be considered by the Police Official; and
 - (4) A detailed summary of the Disorder Activity that has occurred on or in the property.
 - (5) The amount of the registration fee.

Section 14-72. Mandatory Initial Meeting.

- (a) Unless otherwise agreed to by the Owner and Police Official, within thirty (30) days after notice has been provided to the Owner that a property falls at or above the Disorder Risk Threshold, a mandatory initial meeting shall be held between the owner and the Police Official. The initial meeting may be held in person or by telephone. In the event there are multiple property Owners, the Owner attending the initial meeting must have power of attorney to execute the remedial action plan on behalf of the other Owners.
- (b) At the mandatory initial meeting, the Police Official and the Owner shall, at a minimum, review the following:
 - (1) The data that established the Disorder Activity Count for that property; and
 - (2) Any relevant evidence provided by the Owner that may establish that the property does not fall at or above the Disorder Risk Threshold.
- (c) After reviewing all the evidence, any previously identified Disorder Activity that is found to either not have occurred on or in the property or does not clearly meet the definition of a Disorder Activity shall be discounted and an adjusted Disorder Activity Count shall be determined. In the event that the adjusted Disorder Activity Count for the property falls at or above the Disorder Risk Threshold, then the Owner and Police Official shall develop and sign a Remedial Action Plan and the property will be set for a six (6) month review date pursuant to section 14-73. In the event the adjusted Disorder Activity Count is below the Disorder Risk Threshold, then the owner of the Residential Rental Property shall not be required to register the

property or pay the registration fee and no further action shall be taken by the Police Official.

- (d) In the event the Owner fails to attend the initial meeting without just cause, the Police Official shall review all the evidence concerning the property pursuant to Subsections (b) and (c) of this Section. Upon a finding that the adjusted Disorder Activity Count for the property is at or above the Disorder Risk Threshold, the Police Official shall refer the property to the City Attorney's Office for determination of whether a public nuisance action or any other legal or equitable remedy is warranted.
- (e) The Owner of Residential Rental Property that is required to register under his ordinance shall pay a registration fee on or before the Mandatory Meeting in the amount established pursuant to the fee schedule adopted by City Council. This payment shall not be deposited by the City until ten (10) days after the Mandatory Initial Meeting, unless the Police Official's decision to require registration is appealed, in which event the payment will not be deposited until the conclusion of the appeals process.

Section 14-73. Remedial Action Plan and Review.

- (a) At the first six (6) month review, the Owner and Police Official shall review the Disorder Activity in or on the property since the date of the Remedial Action Plan and determine the Disorder Activity Count for the property during that time period. If the Disorder Activity Count is no longer at or above the Disorder Risk Threshold, then no further action will be taken and the Owner of the property will not be required to continue to pay for registration the following year unless at that time the property is again at or above the Disorder Risk Threshold. If the Disorder Activity count continues to fall at or above the Disorder Risk Threshold, then the property will be designated In Need of Remedial Action (INRA) and the Police Official and the Owner shall amend and sign the Remedial Action Plan and a second six (6) month review date will be set.
- (b) At the second six (6) month review, the Owner and Police Official shall review the Disorder Activity in or on the property since the date of the amended Remedial Action Plan and determine the Disorder Activity Count for the property during that time period. If the Disorder Activity Count is no longer at or above the Disorder Risk Threshold, then no further action will be taken. If the Disorder Activity Count continues to fall at or above the Disorder Risk Threshold, then the Police Official shall revoke the rental registration for the property unless it is determined that the Owner has complied in good faith with the remedial action plans.
 - (1) In determining whether the Owner has acted in good faith, the Police Official shall weigh the following factors:

- a. Whether the Owner has regularly met with the Police Official; and
 - b. Whether the Owner has exhausted all resources reasonably available to the Owner in order to comply with the terms of the Remedial Action Plans; and
 - c. Whether the Owner has intentionally ignored a term of a Remedial Action Plan; and
 - d. Whether the Disorder Activity on the property constitutes a public nuisance.
- (2) If the Owner has been found to have acted in good faith, then the Police Official may remove the designation of INRA and continue to work with the Owner. A property that continues to fall at or above the Disorder Risk Threshold for a second year will be referred to the City Attorney's Office for determination as to whether a public nuisance action or any other legal or equitable remedy is warranted.
- (d) All Remedial Action Plans will be based on the procedures and practices set forth in the Fayetteville Police Department *Remedial Action Plan Manual; A Guide to Managing Rental Properties to Prevent Crime*.

Section 14-74. Additional Grounds for Revocation of Rental Registration.

In addition to the grounds stated in Section 14-73(b), the Police Official may revoke the Owner's rental registration based on a determination that:

- (a) The Owner provided materially false or misleading information during the registration process; or
- (b) The Owner refused to meet with the Police Official and/or develop a Remedial Action Plan as required under Section 14-73 without just cause; or
- (c) The Owner failed to pay the required registration fee on or before the date of the Mandatory Initial Meeting as required under Section 14-72(e).

Section 14-75. Notice of Revocation.

A notice of revocation shall be sent by certified mail or delivered in person to the address listed on the rental registration.

Section 14-76. Period of Revocation.

Revocation of an Owner's rental registration shall remain in place for a period of one (1) year. If an Owner fails to register his or her property as required by this ordinance then that property shall be ineligible for registration for a period of one (1) year.

Section 14-77. Transition Plan and Notification of Tenants.

Upon revoking a rental registration, the Police Official or Development Services Official shall develop a transition plan for the Owner's lawful disengagement from the operation and management of the rental property. The transition plan may include a referral to the City Attorney for the evaluation of the property as a public nuisance or for any other legal or equitable remedy available under law necessary to fairly assist in the disengagement process. Upon revocation and issuance of a transition plan, the Police Official or Development Services Official shall take reasonable steps to notify the residents of the property.

Section 14-78. Registration of Residential Rental Property Upon Adoption of Ordinance by City Council.

The City Council, by ordinance, may add any dwelling exempted from the definition of "Residential Rental Property" in this ordinance, to the Rental Action Management Program upon finding that existing remedial provisions have been inadequate to abate the detrimental impact on the tenants, the adjacent properties, the dwelling and the neighborhood.

Any property added to the Rental Action Management Program pursuant to an ordinance adopted by City Council shall be required to abide by the conditions set forth in this ordinance.

Section 14-79. Residential Rental Property Review Board.

- (a) A Residential Rental Property Review Board (hereinafter "Board") is hereby established, to be composed of seven members: four members to be appointed by the City Council, two members to be appointed by the mayor and one to be appointed by the City Manager. The appointing authorities shall ensure that the members of the Board are representative of the residential rental, tenant and homeowner community.
- (b) One member from the Fayetteville Police Department as designated by the Police Official and one employee of the City's Development Services Department who has the authority to investigate code violations will sit on the Board as advisors only.

- (c) Individuals with a felony conviction within the last ten (10) years shall not be eligible to serve on the Board. Further, conviction of or a plea of *nolo contendere* to a felony during the term of office shall automatically terminate membership on the Board, irrespective of any appeals. Board members charged with a felony during a term of office shall be automatically suspended until disposition of the charge, and a quorum shall be established from the remaining membership.
- (d) Board members shall keep all information about criminal investigations confidential.
- (e) The Board shall elect a chairperson and vice-chairperson from its membership.
- (f) All members of the Board serve without compensation.
- (g) The terms of office shall be for two (2) years with no member serving more than two consecutive full terms. The terms of one-third of the Board shall expire each year. If a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.
- (h) Five voting members shall constitute a quorum. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the City Council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.
- (i) Members shall be subject to removal from the Board with or without cause by the appointing authority.

Section 14-80. Duties and Responsibilities of the Residential Rental Property Review Board.

The Board shall hear appeals from an Owner of Residential Rental Property who is required to register due to disorder activity as defined in this ordinance, and/or whose registration has been revoked.

Section 14-81. Notice of Appeal of Rental Registration Due to Disorder Activity and Notice of Appeal of Revocation.

A Residential Rental Property Owner may appeal a notice of revocation of rental registration to the Board as well as the Police Official's decision to require registration following the Mandatory Initial Meeting. All appeals to the Board must be filed in writing with the City Clerk's office within ten (10) calendar days of the date the notice of

revocation is served on the Owner by certified mail or in the case of an appeal of the Police Official's decision to require registration, within ten (10) days of that decision. The Owner shall provide a valid current address for the purpose of all notifications required to be made pursuant to this ordinance. The request must state the reason for the appeal.

Section 14-82. Hearing Procedure and Appeal of Board's Findings.

- (a) The City Clerk shall forward an appeal of the Police Official's decision to require rental registration, or revocation of rental registration, to the Police Official, Development Services Official and to the Chair of the Board. The Police Official or Development Services Official shall prepare a summary of the case, including all relevant data. The summary shall be provided to the Board and the Owner at least five working days before the hearing.
- (b) Unless a quorum cannot be obtained or as otherwise agreed to by the Owner and Police Official or Development Services Official, the Board shall hold a hearing within thirty (30) calendar days of the date the appeal is received by the City Clerk. Should the Owner or the Police Official or Development Services Official desire a hearing date other than that set by the Board, the Owner or the Police Official or Development Services Official shall submit a written request for a change of the hearing date, stating the reason for the request. The Chair shall approve or disapprove such request, provided that such request is received by the Board at least seven (7) calendar days prior to the date of the hearing. For good cause, the Chair may continue the hearing from time to time. The hearing shall be conducted with at least five (5) voting members of the Board present.
- (c) The Owner shall appear at the hearing in person and shall have the right to representation by a person of his or her choice. The North Carolina Rules of Evidence, G.S. Chapter 8C, shall not strictly apply to the hearing, but all parties shall have an opportunity to offer evidence, cross-examine witnesses, and inspect documents. Only sworn testimony shall be accepted. The Chair of the Board, as well as any Board member designated by the Chair, shall have the authority to administer the oath as set forth for witnesses in a civil matter by G.S. § 11-11. All hearings before the Board shall be *de novo* and recorded. The Board has the authority to develop rules and regulations consistent with this ordinance to facilitate the hearing process.
- (d) In the event of an appeal of the Police Official's decision to require registration, the City shall have the burden of proof and must establish by the preponderance of the evidence that the Disorder Activity Count for the property falls at or above the Disorder Risk Threshold. In the event of an appeal of a notice of revocation due to Disorder Activity, the City shall have the burden of proof and must establish by the preponderance of the evidence that the Owner's property is In Need of Remedial Action and the

owner has failed to act in good faith to comply with the Remedial Action Plan. In the event of an appeal of a notice of revocation due to code violations, the City shall have the burden of proof and must establish by the preponderance of the evidence that the Owner's property has been issued a notice of violation four (4) or more times in the previous twelve (12) month period. After reviewing the evidence and hearing testimony from the witnesses, the Board shall issue findings of fact and conclusions of law and issue an order either affirming or reversing the decision of the Police Official or Development Services Official.

- (e) An Owner has the right to appeal the Board's decision to the City Council by filing a notice of appeal with the City Clerk within (10) ten days after the Board issues its written decision. When feasible, the matter will be set for review by the City Council at the next regularly scheduled business meeting. The City Council shall make its decision based on the record below, and no additional evidence will be considered. A majority vote by the City Council in favor of the Board's decision is required to uphold the Board's decision to require registration or to revoke the Owner's registration. An appeal to City Council will stay the proceedings until it completes its review.
- (f) If the City Council upholds the Board's decision, the Owner shall have the right to seek judicial review of the Board's decision in a proceeding in the nature of certiorari instituted in the Superior Court of the county within 30 days after the City Council votes to uphold the Board's decision. Judicial review shall not automatically stay the registration requirement or revocation.

Section 14-83. INRA Designation Binding on Subsequent Owner.

The designation of a property as INRA and the application of the procedures set forth in this article shall be binding upon all subsequent Owners or other transferees of an ownership interest in the Rental Residential Property. However, the revocation may be stayed during the implementation of a transition plan.

Section 14-84. Enforcement, Remedies and Penalties.

- (a) The remedies provided herein are not exclusive and may be exercised singly, simultaneously, or cumulatively. In addition, the remedies provided herein may be combined with any other remedies authorized by law and exercised in any order. This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (b) It shall be a civil violation of this ordinance for any Owner of Residential Rental Property or person or entity on behalf of that Owner to commit any of the following acts:

- (1) Lease or rent Residential Rental Property to another person or entity when the rental registration for that property has either been revoked or never obtained as required by this ordinance, except pursuant to a transition plan as set forth in Section 14-77 of this ordinance.
 - (2) Lease or rent Residential Rental Property to another person or entity after the Owner has been served with notice of the mandatory meeting and fails to attend the meeting without just cause as set forth in Section 14-72 of this ordinance.
 - (3) Lease or rent Residential Rental Property to another person or entity after the Owner has been served with notice of the mandatory meeting and fails to pay the required registration fee prior to or on the date of the mandatory meeting as set forth in Section 14-72(e) of this section.
- (c) Notwithstanding that the Owner's property registration has been revoked or the Owner has failed to attend the mandatory meeting as set forth in Section 14-72 of this ordinance, the owner shall not commit the following acts:
- (1) Refuse or fail to comply with any order of the City to repair a dwelling pursuant to Chapter 14 of the Fayetteville City Code, or
 - (2) Terminate the utility services of any occupants or otherwise violate the rights of residential tenants under Article 2A, Article 5, or Article 6 Chapter 42 of the General Statutes.
- (d) Notwithstanding that the Owner's property registration has been revoked, the Owner's compliance with its obligations in subsection (c)(1) and (2) hereinabove shall not be deemed as offenses under subsection (e) below.
- (e) Failure to comply with the provisions of this section shall subject the offender to a civil penalty of fifty dollars (\$50.00) a day for the first 30 days, one hundred dollars (\$100.00) a day for the next thirty days, and five hundred dollars (\$500.00) a day for each subsequent day.
- (f) A civil penalty that is assessed under this ordinance may be recovered by the City in a civil action in the nature of a debt if the owner does not pay the penalty fee within thirty (30) days after a notice of the penalty is issued by the Police Official or the Development Services Official.

APPENDIX A

UCR Code	Offense Description	Point Value
O110	Homicide	4
O120	Homicide Negligence	4
O300	Robbery	3
O410	Aggravated Assault	3
O410	Aggravated Assault-Officer	3
O410	All Other	3
O510	Burglary - Forcible Entry- Residence	2
O520	Burglary - Non Forcible Entry- Residence	2
O640	Larceny from Motor Vehicle	2
O710	Motor Vehicle Theft-Automobile	2
O720	Motor Vehicle Theft-Truck	2
O730	Motor Vehicle Theft-Bus	2
O740	Motor Vehicle Theft-Recreational Vehicle	2
O790	Motor Vehicle Theft-All Other	2
O810	Assault-Simple Physical	2
O820	All Other- Communicating Threats	1
O830	Physical Assault - Sexual Motive	2
O840	Non physical Assault - Sexual Motive	2
O890	Assault- Physical Officer	2
O890	Simple Assault-All Other	2
1310	Buying / Receiving Stolen Property	2
1330	Possessing / Concealing Stolen Property	2
1530	Possessing / Concealing Weapons	2
1550	Using Weapons (Illegal Discharge)	3
1610	Prostitution	1
1810	Drug/Narcotic Violations	3
1834	Equipment / Paraphernalia - Possessing	1
1990	All Other Gambling	1
2211	Selling / Distributing Tax Paid Liquor	1
2212	Possessing / Concealing Tax Paid Liquor	1
2214	Using / Consuming Tax Paid Liquor	1
2410	Disorderly Conduct	2
2420	Disturbing the Peace	2
2430	Fighting (Affray)	2
2440	Unlawful Assembly	2
2450	Drunk and Disruptive	2
2660	Parole & Probation Violations	3
2680	City Ordinance Violations	1
2690	City Ordinance Violations	1

APPENDIX B

Chapter 6 - Animals and Fowl

Article III - Animals and Fowl within the City Limits

Division 2. - Dogs

Sec. 6-241. - Sanitary conditions.

Chapter 14 - Housing, Dwellings and Buildings

Article II - Standards of Fitness and Responsibilities of Owners and Occupants

Sec. 14-31. - Space and use standards.

Sec. 14-32. - Light and ventilation standards.

Sec. 14-33. - Exit standards.

Sec. 14-34. - Structural standards.

Sec. 14-35. - Property maintenance.

Sec. 14-36. - Electrical standards.

Sec. 14-37. - Plumbing standards.

Sec. 14-38. - Heating standards.

Sec. 14-39. - Responsibilities of owners and occupants.

Chapter 16 - Motor Vehicles and Traffic

Article XII - Abandoned, Junked and Nuisance Vehicles

Sec. 16-354. - Abandoned vehicles unlawful; removal authorized.

Sec. 16-355. - Public nuisance vehicles unlawful; removal authorized.

Sec. 16-356. - Junked motor vehicles unlawful; removal authorized.

Chapter 22 - Solid Waste

Article I - In General

Sec. 22-16. - Illegal dumping; owners and occupants required to keep premises free from public health and safety nuisances.

How would you calculate the top 10% of crime properties for inclusion in RAMP?

February 6, 2012

In order to calculate you need to know the total number of things being compared – in this case the number of single-family homes offered for rent that are the site of crime. For discussion purposes, let's say there are 30 single-family homes in Fayetteville that are offered for rent, but of the 30 only 20 have been the site of crime over the last 6 months.

The math then works out like this: **20 rental houses with crime incidents X 10% = 2 houses eligible for RAMP.**

RAMP adds to this by assigning possible points per crime type, as described in RAMP Appendix A, using a weighted criteria. At the 6-month reviews for RAMP eligible properties, staff would likely create something like this to clearly identify those top properties that could be eligible for RAMP.

H1: homicide= 4 pts H2: assault, threats, affray= 5 pts H3: assault, threats, affray= 5 pts H4: no crime H5: 2 burglaries, drunk/disruptive= 6 pts H6: assault, threats, affray= 5 pts H7: no crime H8 assault, threats, affray= 5 pts H9: no crime H10: 2 prostitution, drugs, homicide=9 pts	H11: no crime H12: motor vehicle theft= 2 pts H13: gambling, unpaid liquor, drugs= 5pts H14: no crime H15: assault, threats, affray= 5 pts H16: no crime H17: motor vehicle theft= 2 pts H18: robbery, assault, drugs, affray= 11 pts H19: no crime H20: assault, threats, affray= 5 pts	H21: 3 homicide, 2 assaults=17 pts H22: buying stolen property = 2 points H23: no crime H24: assault, threats, affray= 5 pts H25: no crime H26: concealed weapon, parole viol. = 4pts H27: assault, threats, affray= 5 pts H28: motor vehicle theft= 2 pts H29: no crime H30: 4 drugs, 4 prostitution= 16 pts
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In the above scenario H21, H30, and H18 would be reviewed for RAMP using the top 10%, as they clearly have the highest point values. Again for discussion purposes, let's assume that H21 was a domestic murder/suicide. The Police Department would NOT include them in RAMP, as the domestic violence was likely not preventable. As such, the top houses would then be H30 and H18.

To put it in perspective, the US Census 2010 projected that there were 59,638 single family homes (attached/detached) in Fayetteville. So of that number that are rental properties we would begin tracking which were the site of crime. At the 6-month mark following RAMP implementation, we would then determine which of those 1.) residential properties 2.) offered for rent 3.) that were the site of crime and 4.) were in the top 10% of crime and evaluate them for entry into RAMP

RAMP Program Budget			
	Start up costs for 1st yr	FY 2012 full yr	Assumptions
One Time Costs			
Printing, advertising, postage, supplies	10,000		Initial ad campaign and educational program, developing paperwork, engaging service area
Computers	16,596		1 desktop and monitor, two custom built desk tops and monitors, 2 Panasonic laptops
Software	75,000		ARCGIS/ESRI, CRYSTAL, MAGNET, Windows 7, Accurint Clear
Radios	5,600		2 analyst field operations
Purchase of vehicles (1)	50,000		No mileage reimbursement- police cruisers
Furniture office set for two Crime Analysts, 1 OAI, 1 inspector	5,000		5 office set-ups, filing,
Subtotal	162,195.59		
One Time Costs Personnel			
Pre-Employment:	788.60		
Books:	361.20		
BLET Training/Cert.:	16068.00		
FPD Prerelease Training:	2472.00		
Clothing/Supply:	1244.14		
Service Weapon/Ammo:	500.00		
Lateral Officer Training:	858.00		
Subtotal	22,292		
Total One Time Costs	184,487.53		
Annual Reoccurring Expenditures (Personnel and Operating)			
Personnel Expenditures			
Inspector		47,574	FY 12 half yr; FY13 Full yr with 2.5 % inflation rate
OA II part time- Inspections		15,095	
Crime Analyst		56,115	
Crime Analyst		56,115	
Police Officer		48,761	
10% Attorney Salary and Benefits*		8,808	
Total Personnel Expenditures		232,469	
Operating Expenditures			
Mileage Reimbursement Inspector (1)		600	\$50 a mth for fuel based off of current inspectors mileage reimbursement or \$600 yr, \$400 per yr in maint; 3.5% inc. yr
Fuel Police Cruisers (1)		6,000	
Maintenance Police Cruisers (1)		400	
Telephone		3,134.00	\$30 per month for cell phone for the inspector , 4 landlines for OAI, two analyst and inspector, \$42 cell phone with data plan for analyst(2)

	Start up costs for 1st yr	FY 2012 full yr	Assumptions
Office Supplies		3,000	
Memberships and Dues Crime Analyst		120	International Association of Crime Analyst (\$25 x2) and Intelligence Analyst Association (\$35 x2)
Memberships and Dues Inspector		35	NC Home Inspector Application fee http://www.ncdoi.com/OSFM/Engineering/HILB/Documents/ApplicationFormsHomeInspector.pdf
Annual Training/education for Crime Analyst		10,000	\$5000 per analyst, ESRI level I,II & III ESRI, Cystal Training, RMS record maintenance trainig, Magnet, Alpha Group Training plus \$160 certification application
Annual Training/education for Inspector		5,200	Level I Home Inspector Training, CSI training
Software Maintenance and License		16,300	ESRI license (3x2100), I2 \$5000, Magnet \$5000
Program- Printing		3,000	Program Notices, Forms, Violations Letters
Program- Postage		1,500	Certified postage to 230 participants and follow up communications
Annual Training/education for Police		500	\$500 per officer annually
Total Operating Expenditures		49,789	
Total annual FY cost (personnel & operating)		282,258	
Total Program Set up costs, personnel and operating budget		466,745	
*Added 10% for work of Assistant City Attorney			